

April 2, 2003 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

03AN0230

Lance Mortimer

Matoaca Magisterial District
20827 Chesterfield Avenue

REQUEST: A Special Exception to permit the keeping of nine (9) dogs in a neighborhood business (C-2) district.

RECOMMENDATION

Recommend denial of this Special Exception for the following reasons:

- A. Special Exception may adversely affect the health, safety or welfare of persons residing on the premises or in the area.
- B. Special Exception may impair the character of the district.
- C. Use may reduce or impair the value of buildings or property in surrounding areas.

GENERAL INFORMATION

Location:

Property is located at 20827 Chesterfield Avenue. Tax ID 795-612-1149 (Sheet 45).

Existing Zoning:

C-2

Size:

.312 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - C-2; Residential
South - C-2; Commercial
East - C-2; Commercial
West - C-5; Commercial

Utilities:

Public water and sewer

General Plan:

(Ettrick Village Plan)

Community Commercial

DISCUSSION

The applicant requests a Special Exception to permit the keeping of nine (9) dogs in a neighborhood business (C-2) district.

The applicant provides the following information in support of this request:

We own a male and female pug. The female recently had puppies. We also have two (2) dogs that belong to our youngest daughter and a stray we have taken in because we could not find a good home for her. We have five (5) adult dogs and four (4) puppies. The adult dogs have been spayed or neutered and the puppies will be spayed and neutered when they are old enough. These dogs are all well cared for and loved. (Please see attachments)

Staff notes that Planning Department staff visited the site in response to a complaint. Staff's inspection revealed that the applicant was in violation of the Zoning Ordinance by keeping more than two (2) adult dogs (private kennel) in a neighborhood business (C-2) district. This request is in response to staff's investigation.

The subject property is located in an area zoned neighborhood business (C-2). The structure on the subject property is being used as a residence.

Staff believes that this type of request may have an adverse affect on the character of the area and may adversely affect the welfare of the persons residing or working in the area because the noise produced by nine (9) dogs may create a nuisance.

Staff believes that imposing conditions will not mitigate the negative impact that this use may have on this area. Although the yard is adequately maintained and the dogs are confined within a fence in the rear yard, the number of dogs may be a nuisance to adjacent and area properties. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

CONDITIONS

1. Special Exception shall be granted to and for Lance Mortimer, exclusively, and shall not be transferable nor run with the land.
2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these nine (9) dogs has not proved a detriment to the adjacent property or the area in general.
3. All dogs shall be confined to the existing dwelling. Whenever the animals are allowed outside the dwelling, they shall be on a leash or within the fence in the rear yard.
4. Should any one (1) of the dogs be given, sold or pass away, it shall not be replaced.
5. The applicant shall not breed or board dogs on this property.
6. The applicant shall provide a history of each dog, such as age, sex, color and size as well as a photo to the Planning Department within thirty (30) days of approval of the Special Exception.

Our oldest daughter lives with us because she is mentally challenged and not really able to care for her self. She loves all animals and want to make all of them part of our family. She takes care of our dogs, feeds them, plays with them, lets them outside to do their business, cleans up after them, and loves them all. She has taken care of them since they were puppies. Caring for our dogs is like therapy for her. She knows she has certain things to do so the dogs stay healthy and happy. The dogs are pretty much her life. Without the dogs all she would do is watch cartoons and sleep. We have tried several different programs and organizations to help her but nothing has worked so far. She feels more comfortable with her dogs then with people. She has never had the urge to go on a date or the desire to live by herself.

The dogs are never left home alone there is always someone with them, either a family member or a dog sitter.

The dog's shots are kept up to date, they see a vet whenever they need to and we have Orkin spray for fleas once a month.

Seven of the dogs are small breed and two are medium size. The dogs are all inside dogs and go outside just long enough to do their business and then come right back inside.

There are no houses adjacent to where we live. On one side is our landlords antique shop. In back a vacant lot owned by our landlord. In front a road with vacant state owned property on the other side. On the other side another road with more vacant state owned property on the other side of it.

Rosco was born in June 1992 and belongs to our youngest daughter. She got him the first time she was married. She got divorced and moved home with the puppy. Rosco is a chow. He is the protector of the family. When Rosco wants attention he lets you know, which isn't often. He has had both knees operated on and is not allowed to have too much activity. He has been neutered.

Freckles is a medium size mixed breed dog found by our youngest daughter's second husband in 1995. She was a puppy 10 or 12 weeks old. Our daughter brought her to us to care for. Our oldest daughter did most of the caring and feeding. Freckles is scared of most things and does not like something new being brought into the house. She has been spayed.

BuBu is a Boston Terrier our youngest daughter bought in 1997. She has been spayed. Both our daughter and her husband worked so she brought Rosco and BuBu to our house every day while they were working.

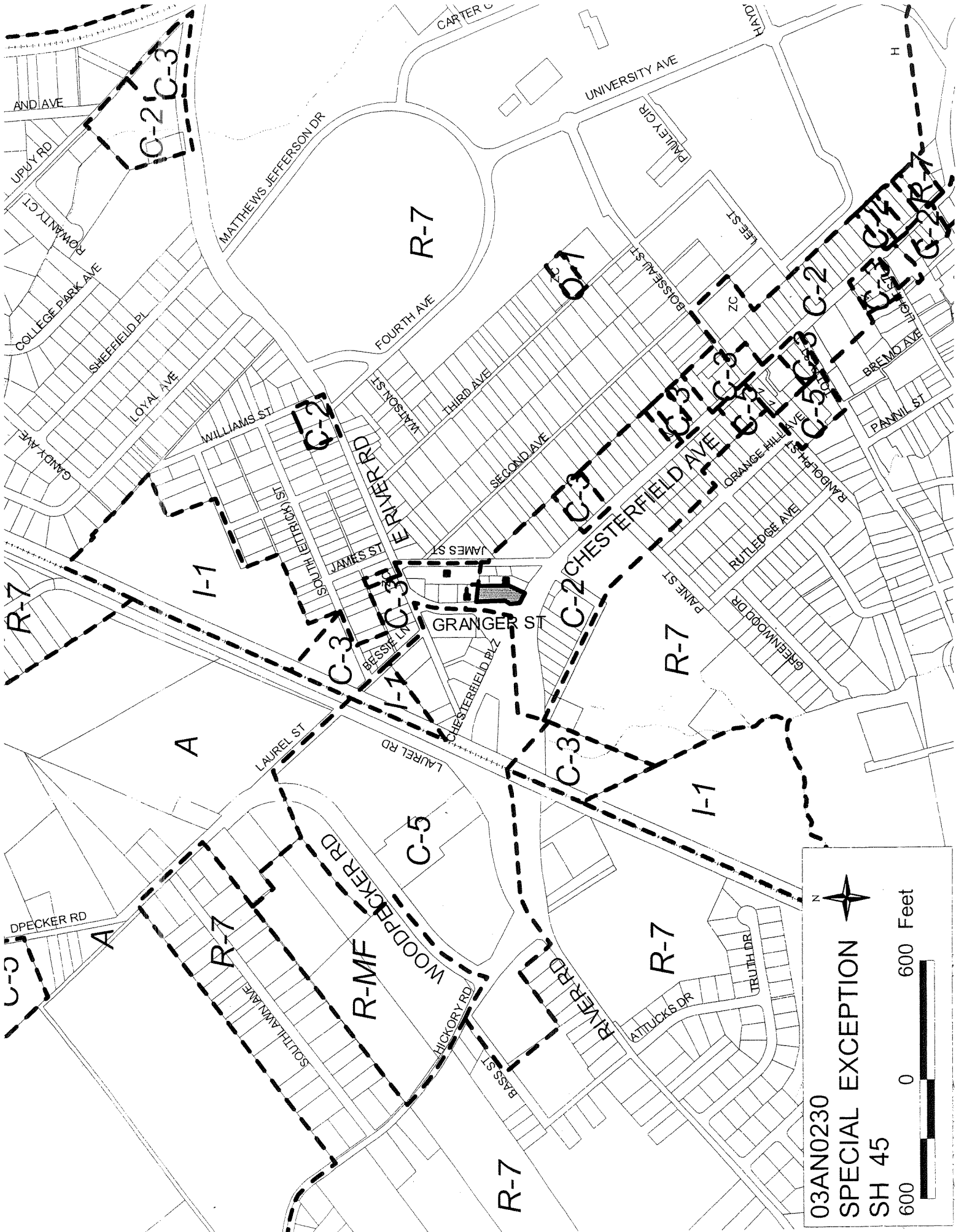
In 1996 our youngest daughter gave my wife a pug for mothers day. My wife carries Gizmo everywhere she goes and she is a constant companion to my wife. Gizmo does not like it when my wife leaves her.

In 2001 we bought another pug Spike. The first time my wife held him they formed an immediate bond. Spike was mated with Gizmo and she had a litter in Sept. Gizmo was spayed after she finished nursing the puppies and Spike was neutered Feb 6.

Our youngest daughter got married for the third time. When they came back from their honeymoon they brought a shar pei. We had to make an emergency trip to New York State and our youngest daughter and her husband stayed at our house to help take care of our mentally challenged daughter. The shar pei and chow got into a fight. So our daughter could not take the chow back.

The only way Gizmo would nurse her puppies was if someone sat with her. Our oldest daughter was the one that sat with her most of the time so she formed a bond with the puppies and she cares for and loves each one.


Our oldest daughter has cared for every one of these dogs, except the shar pei, since they were puppies even our youngest daughter's dogs because she worked two jobs.



03AN0230
SPECIAL EXCEPTION
SH 45

600 0 600 Feet

N



GRANGER ST.

fence

Area for dogs

Storage
Shed

house

fence

fence

front

N

CHESTERFIELD AVE.

03ANO230-1